IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST FEBRUARY 2007 / 12TH MAGHA 1928

Crl.MC.No. 2775 of 2006()

AGAINST THE ORDER DATED 04/08/2006 IN CMP 8593/06 IN CC.582/2005 of JUDL.MAGISTRATE OF FIRST CLASS-I, KOTTARAKKARA

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PETITIONER:

JAYASREE, W/O.SASIDHARAN PILLAI,
AGED 36 YEARS, "SRUTHI BHAVAN",
NEDUMANCAVU P.O., KUZHIMATHICADU, KOLLAM DISTRICT.

BY ADV. SRI.P.GOPAKUMARAN NAIR
SRI.C.S.DIAS
SRI.AJITH MURALI

RESPONDENTS:

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1. SURENDRAN PILLAI, AGED 49 YEARS,
KIZHAKKEKARA PUTHEN VEEDU, NEDUMANCAVU P.O.,
KUZHIMATHICADU, KOLLAM DISTRICT.

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

R1 BY ADV. SRI.N.UNNIKRISHNAN
SRI.TWINKLE GEORGE
R2 BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 01/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2775 of 2006

Dated this the 1st day of February, 2007

ORDER

The petitioner is the accused in a prosecution under Section 138 of the N.I Act. Proceedings have been initiated against her by the 1st respondent. Cognizance has been taken. Trial has not started yet. The petitioner in turn had filed a complaint and on the basis of that, Crime No.434 of 2005 of Ezhukone Police Station was registered against the 1st respondent/complainant and his wife. The petitioner filed an application before the learned Magistrate for stay of the proceedings in the 138 prosecution till the final report is filed in Crime No.434 of 2005. This Crl.M.C was admitted and the proceedings were stayed by this Court.

2. Now it is admitted at all hands that final report has been filed in Crime No.434 of 2005. The plank on which the prayer is made does not now exist. Final report having been filed, trial in both cases can now be undertaken. In these circumstances, this Crl.M.C is found to be infructuous and unnecessary.

3. This Crl.M.C is, accordingly, dismissed. The learned counsel for the petitioner prays and it is clarified, though not strictly necessary, that the dismissal of this Crl.M.C will not in any way fetter the rights of the petitioner to raise all appropriate and relevant contentions before the learned Magistrate in the course of the trial.

(R.BASANT, JUDGE)

rtr/-